

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

TERRI ANN TATE

Plaintiff,

vs.

BAC HOME LOAN SERVICING, LP,

Defendant.

Terri Ann Tate, In Pro Per
38658 Mystic Court
Farmington Hills, Michigan 48331

Case Number: 2:10-cv-13257

Honorable David M. Lawson

BODMAN LLP
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**EX PARTE MOTION TO ENLARGE TIME FOR RESPONSE TO COMPLAINT
PURSUANT TO FED.R.CIV.P. 6(b)**

Defendant BAC Home Loans Servicing, LP (“BAC”), through its undersigned counsel, Bodman LLP, moves under Fed.R.Civ.P.6(b) for an extension of time to respond to plaintiff’s complaint. BAC would like until September 22, 2010, to respond. In support, BAC states as follows:

1. On August 26, 2010, pro se plaintiff Terri Ann Tate filed her twenty-four page, single-spaced complaint comprising nearly 700 lines of text.

2. Each *line of text* in the complaint is numbered. However, *none of the paragraphs are numbered*. Accordingly, plaintiff’s claims are embedded within the complaint’s 679 numbered lines of text, but none of the claims are separately stated within single numbered paragraphs.

3. Fed. R. Civ. P. 10(b) requires that a party state its claims and/or defenses in numbered paragraphs:

A party must state its claims or defenses in numbered paragraphs, each limited as far as practicable to a single set of circumstances. A later pleading may refer by number to a paragraph in an earlier pleading. If doing so would promote clarity, each claim founded on a separate transaction or occurrence – and each defense other than a denial – must be stated in a separate count or defense.

4. The complaint fails to state the claims plaintiff alleges in separately numbered paragraphs as required by Fed. R. Civ. P. 10(b).

5. As no telephone number was listed in the court papers, it has been difficult to contact plaintiff via telephone to discuss the deficiencies in the complaint and BAC’s response to same.

6. BAC’s s counsel has unsuccessfully attempted to locate a telephone number for plaintiff from numerous information directories.

7. Fed.R.Civ.P 6(b) provides that the Court may, for cause shown “at any time in its direction * * *with or without motion or notice order the period [of time to respond] enlarged if request therefore is made before the expiration of the period originally prescribed or as extended by a previous order.”

8. As the period of time to respond has not passed, this Court should enlarge the period of time to respond to September 22, 2010.

9. BAC’s counsel needs additional time to dissect the myriad statements in the complaint before formulating a response. BAC also needs an opportunity to contact pro se plaintiff to explain the manifold defects in her complaint, and to seek her concurrence in BAC’s contemplated motion to dismiss the complaint. The deficiencies include, but are not limited to: (a) failure to comply with Fed. R. Civ. P. 10(b), as set forth above; (b) a Truth in Lending Act claim that is barred by the one-year statute of limitations; (c) significant evidence that plaintiff signed the mortgage and accompanying documents and consented to the terms of same, despite assertions in the complaint to the contrary; and (d) allegations that BAC lent money to plaintiff, when in fact BAC merely serviced the loan. In light of these facts, plaintiff may choose voluntarily to dismiss the case.

10. Moreover, BAC should be given the opportunity and time to investigate the claims contained in the complaint prior to filing a response.

11. If the Court grants an extension of time, BAC will have an opportunity to confer with plaintiff, investigate the claims, and determine how to proceed in this case. An extension of time will best serve the interests of justice and efficiency.

12. BAC has attempted to seek concurrence for this motion as required by LR 7.1. However, despite numerous attempts as detailed above, BAC has been unable to confer with plaintiff.

13. This motion is presented *ex parte* because BAC has been unable to contact plaintiff, as detailed above.

WHEREFORE, this Court should extend the time for BAC to respond to plaintiff's complaint by 14 days, until September 22, 2010, pursuant to Fed.R.Civ.P. 6(b).

Respectfully submitted,

BODMAN LLP

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September 8, 2010

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Plaintiff,

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**BRIEF IN SUPPORT OF EX PARTE MOTION TO ENLARGE TIME FOR RESPONSE
TO COMPLAINT PURSUANT TO FED.R.CIV.P. 6(b)**

In support of its motion, defendant Bank of America Home Loan Servicing, LP, relies on Fed.R.Civ.P. 6(B).

Respectfully submitted,

BODMAN LLP

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CERTIFICATE OF SERVICE

The undersigned certifies that on September 8, 2010, **BAC Home Loans Servicing, LP's Ex Parte Motion to Enlarge Time for Response to Complaint and Brief in Support** was electronically filed with the Clerk of the Court for the United States District Court, Eastern District of Michigan, Southern Division using the CM/ECF System, which will send notification of such filing to all attorneys and parties of record registered electronically.

I further certify that on September 8, 2010 **BAC Home Loans Servicing, LP's Ex Parte Motion to Enlarge Time for Response to Complaint and Brief in Support** was served via U.S. First Class Mail upon:

Ms. Terri Ann Tate
38658 Mystic Court
Farmington Hills, Michigan 48331

/s/ Niesa Trent Fagan

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